IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRIMINAL MISC.NO.3784 M OF 2005

DATE OF DECISION: NOVEMBER 23, 2006

Harwant Kaur

.....Petitioner

VERSUS

State of Punjab and another

....Respondents

CORAM:- HON'BLE MR.JUSTICE RANJIT SINGH

PRESENT: Mr. Vishal Sharma, Advocate,
for the petitioner.

Mr. M. C. Berry, Sr.DAG, Punjab,
for the State.

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RANJIT SINGH, J. (ORAL)

Petitioner, Harwant Kaur, is the complainant at whose instance the impugned FIR No.11 dated 21.1.2003 was got registered for offences under Sections 452, 325, 34 IPC. Respondent Nos.2 to 4 are the accused persons in this FIR. This incident had taken place between the petitioners and respondent Nos.2 to 4, who are stated to be staying as neighbours. The allegations made in the FIR would show that on the night intervening of 19/20.1.2003, about 3-4 persons had statedly come to the house of the petitioner and after opening of door after ringing of bell, had caused an injury on right ankle of the complainant. The petitioner had not named the said 3-4 persons due to fog and on the basis

of the same, FIR in question was lodged, leading to the proceedings against respondent Nos.2 to 4. During the course of proceedings, the matter has been amicably resolved between the petitioner and respondent Nos.2 to 4 on the intervention of respectables and elders of the families. It is stated that this has been done to achieve good neighbourly relations and to maintain peace in the locality. It is in this background that the petitioner, who herself is the complainant, had filed this petition, seeking quashing of the FIR, which was registered at her instance. Obviously, the respondents would be too happy if the prayer made by the petitioner is granted. There is no opposition to the said prayer by respondent Nos.2 to 4.

Reply has been filed by State, maintaining that offence under Section 452 IPC is not compoundable in view of the provisions of Section 320 Cr.P.C. Accordingly, the petition has been opposed by the State.

It is not disputed before me that the offence under Section 452 IPC is non-compoundable. It may, however, require consideration if quashing of the proceedings in a case under Sections 452 IPC can be allowed on the basis of a compromise. Basically, it is required to be seen if the FIRs and subsequent proceedings can be quashed in these cases, which are non-compoundable offences. Reference in this regard may be made to the judgement of **Haji Nihal Ahmad and others Vs. State of U.P and another, 1998 Crl. L.J. 2082.** In this case, the question whether a proceeding in a criminal case arising out of non-compoundable offences can be quashed came up for consideration. It was observed

that even if the proceedings in such case are allowed to be tried by the Court, the ultimate result would be an acquittal as the complainant party was not likely to support the prosecution case. It was accordingly observed that trial in such a case would be an exercise in futility. It can be noticed that in a case where the parties have settled their differences and dispute though outside the Court, it would rather be unnecessary and unwarranted to continue with this trial which ultimately would be a fruitless exercise.

By now, it is fully settled that High Court in exercise of its inherent powers can quash proceedings if it finds that allowing of any such proceedings to continue would be an abuse of process of the Court or that ends of justice require that the proceedings be quashed. In this regard, observation of the Hon'ble Supreme Court in **State of Karnataka Vs. L.Muniswami AIR 1977 SC 1489** can be referred. It was observed in this case, that the ends of justice are higher than ends of mere law. It was further said that though justice has got to be administered accordingly to the laws made by the legislature yet the Court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. As per the Hon'ble Supreme Court, the lame prosecution could be quashed. The relevant observation of the Hon'ble Supreme Court is reproduced below:-

> “In the exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be

quashed. The saving of the High Court's inherent powers, both in civil and criminal matters is designed to achieve that a Court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. In a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice. The ends of justice are higher than the ends of mere law though justice has got to be administered according to laws made by the legislature. The compelling necessity for making these observations is that without a proper realisation of which seeks to save the inherent powers of the High Court to do justice between the State and its subjects it would be impossible to appreciate the width and contours of that salient jurisdiction."

It can be noticed that in various judgements, the Hon'ble Supreme Court and various High Courts have granted permission for compounding of offences in the non-compoundable offences. A Full Bench of this Court has gone into this aspect in detail in Dharambir Vs. State of Haryana, 2005 (3) RCR (Criminal) 426 and has held that criminal proceedings in prosecuting a case relating to matrimonial can be quashed in exercise of inherent jurisdiction under the provisions of Section 482 Cr.P.C. Though the Full Bench has ruled that High Court has no power to quash the proceedings or allow compounding of offences either under the Code of Criminal

Procedure or the Constitution except in matrimonial cases, yet it went on to hold that High Court can quash criminal proceedings in the interest of justice and to prevent abuse of law. It was also observed that the terms `abuse of process of law' and `in the interest of justice' cannot be put in straight-jacket formula and Courts were left to decide as per the facts in each case. As per the said Full Bench, while exercising powers under Section 482 of the Code, the Court has, in given cases, quashed the criminal proceedings where it felt that the same were required to prevent the abuse of process of any Court or to otherwise secure ends of justice. The Full Bench further held that these decisions would necessarily involved an appraisal of the facts and circumstances of each case and Court could not, while interpreting the statutory provisions, take upon itself the onerous responsibility of extending the powers of compounding of offences to cases other than those listed in Section 320 (1) and (2) of the Code. The Full Bench also noticed the requirement of making an endeavour to bring into operation the conciliation process. The necessary observations of the Full Bench in this regard may be noticed and these are as follows:-

> "12.....The balance in each case will have to be struck to ensure that complete justice is done between the parties and for achieving this, each individual case will have to be scrutinised to find out whether it attracts any of the provisions incorporated in Section 482 of the Code to impel the Court to grant relief to a party either in the exercise of the aforesaid power or under Article 226 of the Constitution. Therefore, we would not like to launch

> an exercise for determining the scope of judicial intervention as provided under Section 482 of the Code in view of the terms “abuse of the process of law” and “in the interest of justice”, as it would not be proper for us to provide a straightjacket formula for chennelising judicial responses to the facts and the circumstances of a given case. It would be more appropriate that the interpretation of these terms is left open to the response of an Hon'ble Judge to the facts and circumstances of a given case, as and when this Court is called upon to intervene in any matter for preventing the abuse of the process of law and advancing the ends of justice.”

It is, thus, clear that the Hon'ble Full Bench clearly left it to the discretion of the Judge to decide in each case to intervene under Section 482 Cr.P.C. depending upon the facts and circumstances of the case to see if quashing of the proceedings could be ordered in exercise of powers under Section 482 Cr.P.C. to secure the ends of justice and to avoid abuse of process of the Court. While interpreting the sweep of Section 482 Cr.P.C, the Hon'ble Supreme Court in **Madhu Limaye Vs. State of Maharashtra, AIR 1978 SC 47** had observed that there are only two exceptions for exercise of power under this Section and these are:-

> “(1) That the power is not to be resorted to if there is a specific provision in the Code for the redressing of the grievance of the aggrieved party;
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> (2) That it should be exercised very sparingly to prevent abuse of any Court or otherwise to secure the ends of

justice."

Reference in this regard can also be made to **Y. Suresh Babu Vs. State of Andhra Pradesh, JT 1987(2) SC 361** and **Mahesh Chand Vs. State of Rajasthan, (1990) 3 RCR 332** where permission to compound the offence was granted in a case of conviction under Section 326 IPC.

Taking notice of the observations made in Paragraph 12 of the Full Bench decision of this Court, it can be said that inherent powers available under Section 482 Cr.P.C. may still be available for exercising jurisdiction in such like cases, where the entire prosecution is an exercise in futility. Since the complainant, who herself is seeking quashing of the FIR, is not likely to support the prosecution, the proceedings, even if allowed to continue, would only end in wasting the time of the Court and nothing else. In this view of the matter and having regard to the peculiar facts and circumstances of this case, I am inclined to interfere in the matter and quash the FIR.

Accordingly, the petition is allowed and the FIR No.11 dated 21.1.2003 under Sections 452, 325, 34 IPC registered at Police Station Division No.7, Ludhiana, and the subsequent proceedings thereto are quashed.

November 23 , 2006 **(RANJIT SINGH)**
khurmi **JUDGE**